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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

11	UNITED STATES OF AMERICA,	)	No. CR 12-0204 MMC
12	Plaintiff,	)	STIPULATION AND <del>PROPOSED</del>
13	v.	)	ORDER VACATING SEPTEMBER 5,
14	SAUL SANCHEZ REYES,	)	2012 HEARING DATE AND SETTING
15	Defendant.	)	BRIEFING AND HEARING DATES
16		)	AND EXCLUDING ADDITIONAL
		)	TIME FROM SEPTEMBER 4, 2012 TO
		)	OCTOBER 31, 2012

**STIPULATION**

This case is set for setting or change of plea on September 5, 2012. Based on records and other information that the defense received over the past several days, the defense needs to complete its investigation but anticipates that it will file a motion arguing that Mr. Sanchez Reyes was ordered deported based on a conviction that was constitutionally defective under *Padilla v. Kentucky*, 130 S. Ct. 1473 (2010) such that the deportation could not serve as a predicate for a prosecution under 8 U.S.C. § 1326.

In lieu of the court appearance on September 5, 2012, the defense thus requests that the Court vacate the hearing date and set the following briefing and hearing schedule: defendant will file his

1 opening motion on September 26, 2012; the government will file an opposition on October 17, 2012;  
2 the defense will file a reply on October 24, 2012; the motion will be heard on October 31, 2012 or  
3 any date thereafter convenient to the Court. The government has no objection to this request and  
4 jointly submits these dates to the Court.

5 The parties also agree that the time between September 5, 2012 and October 31, 2012 (or some  
6 date thereafter convenient to the Court) should be excluded under the Speedy Trial Act; the  
7 continuance is necessary for effective preparation of counsel, 18 U.S.C. § 3161(h)(1)(D) and  
8 (h)(7)(A) and (h)(7)(B)(iv) and for defendant's pending motion as of September 26, 2012, and the  
9 ends of justice served by granting such a continuance outweigh the best interests of the public and  
10 the defendant in a speedy trial. 18 U.S.C. § 3161(h)(7)(A).

11 SO STIPULATED.

12  
13 Dated: 9/4/12

MELINDA HAAG  
United States Attorney

14  
15 /s/  
16 J. MARK KANG  
Special Assistant United States Attorney

17  
18 Dated: 9/4/12

19 /s/  
SHAWN HALBERT  
Attorney for Defendant

**ORDER**

For the reasons stated above, the Court vacates the September 5, 2012 hearing date and sets the motion briefing and hearing date as follows: Defendant will file his opening motion on September 26, 2012; the government will file its opposition on October 17, 2012; the defense will file a reply on October 24, 2012; the motion will be heard on October 31, 2012 at 2:15 p.m.

IT IS FURTHER ORDERED that the time between September 5, 2012 and October 31, 2012 should be excluded under the Speedy Trial Act; the continuance is necessary for effective preparation of counsel, 18 U.S.C. § 3161(h)(1)(D) and (h)(7)(A) and (h)(7)(B)(iv) and for defendant's pending motion as of September 26, 2012, and the ends of justice served by granting such a continuance outweigh the best interests of the public and the defendant in a speedy trial. 18 U.S.C. § 3161(h)(7)(A).

SO ORDERED.

DATED: September 4, 2012

  
THE HONORABLE MAXINE M. CHESNEY  
United States District Judge